

**REMARKS**

This Amendment is responsive to the Office Action mailed on April 2, 2008. Claims 1-3, 7, and 10 are amended. Claims 4-6, 8, 9, and 19-29 are cancelled. Claims 1-3, 7, and 10-18 are pending.

The Examiner indicates that the Information Disclosure Statement filed on January 29, 2004 is deficient for failing to provide a concise explanation of the relevance of some of the cited foreign language references. In particular, the Examiner has not considered the references listed at lines AJ, AL, AM, AN, AO, AQ, AR, and AT of Applicants' Form PTO-1449 filed with Applicants' Information Disclosure Statement of January 29, 2004. Applicants respectfully submit that, as indicated in Applicants' Information Disclosure Statement, the references listed at lines AJ and AL of Applicants' Form PTO-1449 (FR 760 671 and DE 200 06 450) were cited in the Search Report for Applicants' counterpart International Application and a copy of this Search Report was submitted with the Information Disclosure Statement. Accordingly, no further explanation of the references is required (see MPEP § 609.04(a) section III entitled "Concise Explanation of Relevance for Non-English Language Information"). Further, as indicated in the Information Disclosure Statement, English language equivalents in the form of US patents were submitted for the references listed at lines AN, AO, AR, and AT of the Form PTO-1449. Attached hereto are English language translations explaining the relevance of the references listed at lines AM and AQ of the PTO Form 1449, including an English language translation of claim 1 of DE 1 831 696 and an English language translation of the Abstract of DE 81 11 068.

The Examiner also indicated that a copy of DE 297 08 218 was not submitted. Applicants note that a copy of DE 297 08 218 was submitted with an English language abstract from a counterpart German application (DE 197 19 246) attached thereto. Accordingly, the Examiner may have overlooked the reference as it was underneath the English language abstract from the counterpart DE 197 19 246 application. A copy of DE 297 08 218 with the English language abstract from DE 197 19 246 is resubmitted herewith

In view of the foregoing, Applicants are resubmitting herewith a copy of the Form PTO-1449 submitted with Applicants' January 29, 2004 Information Disclosure Statement. The Examiner is respectfully requested to consider and initial each reference listed and return the initialed Form PTO-1449 to Applicants with the next Official Communication.

In the event that the Examiner determines that a fee for reconsideration of Applicants' Information Disclosure Statement is due, the Patent Office is authorized to charge any such fee to deposit account number 50-0625.

The Examiner has objected to the title of the application as not being sufficiently descriptive of the claimed invention. The title is amended herein to overcome the Examiner's objection thereto, withdrawal of which is respectfully requested.

Claims 1, 3, and 4 are rejected as being indefinite. The claims are amended herein to overcome the indefiniteness rejection. Withdrawal of this rejection is respectfully requested.

Claims 1-5, 7-20, 22, and 23 are rejected under 35 U.S.C. § 102(b) as being anticipated by Ell (US 5,316,512).

Claims 1, 4, 6, 21, 22, and 24-29 are rejected under 35 U.S.C. § 102(b) as being anticipated Shannon (US 3,735,763).

Applicants respectfully traverse these rejections in view of the amended claims and the following comments.

#### Discussion of Amended Claims

Claim 1 is amended to include the subject matter of original claims 1, 4, 5, 6, 8 and 9 and also to specify that the spigot recess has a widened portion of greater cross section than the spigot with the contact surface for the cover element being formed on the widened portion and the cover element being disposed within the widened portion (See, e.g., page 12, lines 10-15 of Applicants' specification).

Claims 2 and 3 are amended to overcome the section 112 rejections as to indefiniteness.

Claims 4-6, 8, 9, and 19-29 are cancelled.

Claims 7 and 10 are amended to depend from claim 1, rather than cancelled claim 4.

With Applicants' amended claim 1, a widened portion is specified which is part of the spigot recess. A contact surface for the cover element is provided, which is formed on the widened portion. The cover element is disposed within the widened portion so that it does not protrude over a surface of the corresponding part. This feature is important for a medical instrument, so that there is no danger that a protruding cover element contacts tissue during operation of the corresponding medical instrument. In addition, the widened portion provides the contact surface for the cover element establishing the connection between the first part and the second part.

#### Discussion of Ells

Claims 1-5, 7-20, 22, and 23 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ell. This rejection is respectfully traversed. An anticipation rejection requires that each and every element of the claimed invention as set forth in the claim be provided in the cited reference. See *Akamai Technologies Inc. v. Cable & Wireless Internet Services Inc.*, 68 USPQ2d 1186 (CA FC 2003), and cases cited therein. As discussed in detail below, Ell does not meet the requirements for an anticipation rejection.

Ell does not disclose a medical instrument, but rather a lamp puller for removing small lamps, such as miniature Christmas lamps, from their sockets.

Amended claim 1 now includes the subject matter of claim 6, which was not rejected in view of Ell. In particular, Ell does not disclose or remotely suggest that a cover element adapted to be placed on the spigot in the manner of a snap-action closure, as set forth in amended claim 1. The flange 32 of Ell is not equivalent to a cover element adapted to be placed on the spigot in the manner of a snap-action closure.

Further, as can be seen from Figure 2 of Ell, the recess 30 for the segments 31 does not have a widened portion, as set forth in Applicants' amended claim 1. In Ell, the flange 32 is not positioned in a widened portion of the recess 30, but rather on top of the segment 31.

In addition, as can be seen in Figure 2 of Ell, a jaw 10 has a hub in which the recess 30 for the segments 31 is formed. Around the hub, a recess 30 is formed in which the thickness of

the jaw 10 is at a minimum. This means that in the area of the hub the jaw 10 is weakened. This seems to be necessary for the segments 31 to be pushable through the recess of the hub. With Applicants' claimed invention, such a "weakening" of the corresponding part is not necessary since the reception area for the cover element is part of the spigot recess, namely the widened portion thereof.

As Ell does not disclose each and every element of the invention as claimed, the rejections under 35 U.S.C. § 102(b) are believed to be improper, and withdrawal of the rejections is respectfully requested. See, *Akamai Technologies Inc., supra*.

#### Discussion of Shannon

Claims 1, 4, 6, 21, 22, and 24-29 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Shannon. This rejection is respectfully traversed. An anticipation rejection requires that each and every element of the claimed invention as set forth in the claim be provided in the cited reference. See *Akamai Technologies Inc. v. Cable & Wireless Internet Services Inc.*, 68 USPQ2d 1186 (CA FC 2003), and cases cited therein. As discussed in detail below, Shannon does not meet the requirements for an anticipation rejection.

Shannon discloses a device for clamping blood vessels.

Amended claim 1 now includes the subject matter of claims 5, 8, and 9, which was not rejected in view of Shannon. In particular, Shannon does not disclose or suggest that: (a) the cover element is positioned on the spigot; (b) the cover element has a larger transverse dimension than the spigot at least in the region of a contact surface on the second part; or (c) the contact surface on the second part is arranged at the spigot recess, all as set forth in Applicants' amended claim 1.

Further, as can be seen from Figure 3 of Shannon, the spigot recess does not have a widened portion with a cover element disposed within this widened portion, as claimed by Applicants in amended claim 1. To the contrary, the clip 32 of Shannon contacts the hub 28 circumferentially (Figure 2). The hub 28 of Shannon protrudes through the clip 32 so that clip 32 does not form a cover. The hub 28 with the clip 32 protrudes over the surface of the part 14

As Shannon does not disclose each and every element of the invention as claimed, the rejections under 35 U.S.C. § 102(b) are believed to be improper, and withdrawal of the rejections is respectfully requested. See, *Akamai Technologies Inc., supra*.

Applicants respectfully submit that the present invention is not anticipated by and would not have been obvious to one skilled in the art in view of Ell or Shannon, or any of the other prior art of record.

Further remarks regarding the asserted relationship between Applicants' claims and the prior art are not deemed necessary, in view of the amended claims and the foregoing discussion. Applicants' silence as to any of the Examiner's comments is not indicative of an acquiescence to the stated grounds of rejection.

Withdrawal of the rejections under 35 U.S.C. § 102(b) is therefore respectfully requested.

Conclusion

The Examiner is respectfully requested to reconsider this application, allow each of the pending claims and to pass this application on to an early issue. If there are any remaining issues that need to be addressed in order to place this application into condition for allowance, the Examiner is requested to telephone Applicants' undersigned attorney.

Respectfully submitted,



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